APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,992	05/15/2001	Charles Eric Hunter	WT-17	9374

35856	7590	10/26/2004

LAVA GROUP LAW BY SMITH & FROHWEIN, LLC
P.O. BOX 88148
ATLANTA, GA 30356

EXAMINER
ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 July 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *105-108* is/are pending in the application.

　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *105-108* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　a)☐ All b)☐ Some * c)☐ None of:

　　1.☐ Certified copies of the priority documents have been received.

　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1. This Office action is in response to Applicant's amendment, filed on 7/23/2004.

2.   Claims 1-104 are canceled and claims 105-108 are pending.

Allowable Subject Matter

3.   Applicant is advised to add the limitations wherein said " an anti-piracy module

to embed an ID tag in the decoded music content, and an output device supplying the

decoded music content to the user from the decoder, and a central controller comprising

a key unique to the selected music content" as recited in the Application No. 09/487,978

into claims 105-108 in order to expedite prosecution.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122 (b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United Stated before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for purposes of this subsection of an application filed in the United Stated only if the international application designated the United States and was published under article 21 (2) of such treaty in the English language.

5.   Claims 105, 106 and 108 are rejected under 35 U.S.C. 102 (e) as being

anticipated by Kleiman (U.S. Pat. No. 5,959,945).

As per claims 105, 106 and 108 Kleiman discloses a TV music broadcasting program

that is distributed from a distribution through a ground station and a satellite, and a

musical-piece program through a plurality of audio channels. A recording medium such as compact disc (CD) or removable storage medium in which the musical-piece is recorded. While recording the musical-piece a key is provided for deciphering at a receiving side for deciphering a musical piece enciphered by scrambling processing and distributed (which is readable as Applicant's claimed invention wherein it is stated that a system for distributing music to a plurality of customer households), the system comprising:

a data transmission system blanket transmitting a plurality of music selections to a plurality of customer households, in digital format **(this limitation is disclosed by Kleiman in the abstract, lines 5-9, specifically wherein it is stated that " a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu", col 2, lines 40-67, col 3, lines 1-52)**;

a user station at the plurality of customer households, enabling the customer household to preview the plurality of music selections a predetermined number of times before billing the customer households for the plurality of music selections, the user station including **(see., Kleiman in the abstract, lines 9-14, col 3, lines 13-52, specifically wherein it is stated that the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand (statistics compiled by the jukebox or preview the**

music). The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to

multiple locations simultaneously, and also col 4, lines 21-31, col 6, lines 22-40,
fig 1, Its, including, it is inherent to realize that the customers are capable of
previewing the music before or for a predetermined number of times before making a
decision or billing);

a user interface for permitting the customer household to preselected a transmitted
music selection for recording **(this limitation is disclosed by Kleiman in the abstract,
lines 9-14, specifically wherein it is stated that "the request can be initiated by the
jukebox and can occur automatically based on statistics compiled by the jukebox
representing user demand (or preselected music). The central storage location
processes the requests and schedules individual requests from each jukebox to
coordinate transmission of music to multiple locations simultaneously", and also
col 4, lines 21-31, col 6, lines 22-40, fig 1, Its, interface or modem);**

a receiver and a high capacity storage medium (or download the music), in
communication with the receiver, for recording the preselected music selection in digital
form **(this limitation is disclosed by Kleiman in the abstract, lines 9-17, specifically
wherein it is stated that "the request can be initiated by the jukebox and can
occur automatically based on statistics compiled by the jukebox representing
user demand. The central storage location processes the requests and schedules
individual requests from each jukebox to coordinate transmission of music to
multiple locations simultaneously", and also col 4, lines 21-31, col 6, lines 22-40,
fig 1, ITs, please note that this is the process of downloading the music at the**

jukebox or customer, and high capacity storage medium or central storage location);

an audio output for outputting audio signals from the high capacity storage medium to a playback device for enabling the customer household to playback the recorded music selection **(this limitation is disclosed by Kleiman in Fig 2A, specifically, wherein it is showed that "Reggae, Blues and so on , please note that it is inherent to recognize that in order for the users to play the music, an audio output such as a speaker, a head phone is needed, col 6, lines 9-20, specifically sounds, col 9, lines 1-39, please note that audio output signal is readable as sound, please also note that playback device is interpreted as Its or IT1-9, speaker or audio output device)**;

a circuit for degrading a quality of the previewed preselected music selections by compressing the preselected music selections, **compressing the preselected music selections, adding distortion to the preselected music selections, overlaying voice over the preselected music selections, and deleting sections from the preselected music selections(see., col 7, lines 25-37, specifically wherein it is stated that there are different options for the Its or IT1-9 to access the OSCs are shown in fig 1. There is a high volume, high speed distribution. In addition, there is a low volume. Please note that degrading quality is readable as low volume or tuning down, and the deleting sections, see., col 6, lines 60-67, col 7, lines 1-4, col 10, lines 1-7)**;

a central controller system having a database for storing therein information corresponding to the customer household(**see., Kleiman in the abstract, lines 2-9, col 4, lines 50-59, specifically, wherein it is stated that "menuing system or music that is stored in a central storage location or database)**;

a communications link between each customer household and the central controller system for verifying to the controller system when a preselected music selection has been made available for playback **or copy (this limitation is disclosed by Kleiman in the abstract, lines 5-17, specifically wherein it is stated that " a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The central storage location periodically updates the local jukeboxes with a list of new releases, during which time the jukebox can also download (download or record) the music", please note that the central storage location is readable as a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes, please also note that since the central storage location or central controller periodically updates, processes, and schedules individual requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can verify when music selection has been made or recorded or download or copy or playback);**

a billing system associated with the central controller system to bill customer household for a music selection that has been made available for playback **or recorded (this limitation is disclosed by Kleiman in col 5, lines 16-28, specifically wherein it is stated "a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing) for services from the central location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customers or jukeboxes for the music selection or recorded or playback or copy).**

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claim 107 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kleiman (U.S. Pat. No. 5,959,945) in view of Kulas (U.S. pat. No. 6,044,047).

As per claim 107 Kleiman substantially discloses a system for distributing music to local, digital electronic jukeboxes, see., abstract, lines 1 and 2 (which is readable as Applicant's claimed invention wherein said a system for distributing music to a plurality of customer households), the system comprising:

a data transmission system for blanket transmitting a plurality of music selections to the plurality of customer households in digital format (see., abstract, lines 5-9, jukebox or customer);

a user station at the plurality of the customer households, enabling the customer household to preview the plurality of music selection, a predetermined number of times, including (see., abstract, lines 9-14, col 4, lines 21-31, col 5, lines 16-28, col 6, lines 22-40, fig 1, IT1-9, the central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations [or customers] simultaneously, it is obvious to realize that the customers are capable of previewing the music before or for a predetermined number of times before making a decision or billing since it is a common business practice);

a user interface for permitting the customer household to preselect a transmitted music selections for recording (see., fig 1, element CM1-n, telephone modem);

a receiver and a high capacity storage medium for recording or massive storage (recording or download the music) the preselected music selections in digital form (see., abstract, lines 9-17, col 4, lines 21-31, col 6, lines 22-40, fig 1, preselected music is disclosed by Kleiman in the abstract, lines 9-14, col 4, lines 21-31, col 6, lines 22-67, specifically wherein it is stated that statistics based on compiled by the jukebox representing user demand, and col 8, lines 9-33, specifically satellite receiver fig 1);

an audio output for outputting audio signals from the high capacity storage medium to a playback device for enabling the customer household to playback the recorded music selections (see., abstract, 5-19, col 6, lines 1-11, specifically wherein it is stated that

execution of an object type in a VET results in human perception of texts, graphics, sounds, please note that audio output is readable as sound, please note that payback device is interpreted as Its or IT1-9, it is obvious to realize that in order to have sound a speaker is needed, speaker or audio output device);

a circuit for degrading a quality of the previewed preselected music selections by compressing the preselected music selections [see., col 7, lines 25-37, specifically wherein it is stated that there are different options for the Its or IT1-9 to access the OSCs are shown in fig 1. There is a high volume, high speed distribution. In addition, there is a low volume. Please note that degrading quality is readable as low volume or tuning down or distortion];

a central controller system having a database for storing therein information corresponding to each customer household (see., fig 1, abstract, lines 3-19, specifically the central storage location or central controller);

a communications link between the customer households and the central controller system for verifying to the controller system when a preselected music selection has been made available for playback (see., abstract, lines 5-17, please note that since the central storage location or central controller periodically updates, processes, and schedules individual requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can transmit or verify when music selection has been made or recorded or download or copy);

a billing system associated with the central controller system to bill customer households for music selections that are made available for playback (see., col 5, lines

16-28, specifically wherein it is stated that "a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing) for services from the central storage location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customer or jukebox for the music selection). Kleiman also discloses a distributing music to local, electronic jukeboxes via satellite see., abstract, lines 1 and 2, col 7, lines 38-45).

It is to be noted that Kleiman fails to explicitly disclose a circuit for overlaying voice and distortion or noise or low frequencies over the preselected music selections or CD. However, Kulas discloses a multi-CD player with a quick scanning feature where the multi-CD player stores samples of a portion of each of the CD's into a fast access memory device. A synthesized voice overlayed onto each portion of the CD (see., abstract, col 1, lines 10-34, col 6, lines 50-54, and distortion or low frequencies to a point one may not be discernible or noise, col 4, lines 4, lines 14-41). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the music distribution of Kleiman by including the limitation detailed above as taught by Kulas because such modification would provide the music distribution of Kleiman with the enhanced necessary of determining and selecting a desired CD or music for playback (see., Kulas, col 1, lines 45-48).

RESPONSE TO ARGUMENT

8.   Applicant's argument filed 07/23/2004 have been fully considered but they are
not persuasive.

REMARKS

9.   Applicant also argues that the prior art of record do not teach or suggest: "a
circuit for degrading a quality of the previewed preselected music selections by
compressing the preselected music selections, **and deleting sections from the
preselected music selections". Based upon foregoing rejection indicated above, it
is believed that Kleiman this limitation (see., col 7, lines 25-37, specifically
wherein it is stated that there are different options for the lts or IT1-9 to access
the OSCs are shown in fig 1. There is a high volume, high speed distribution. In
addition, there is a low volume. Please note that degrading quality is readable as
low volume or tuning down, and the deleting sections, see., col 6, lines 60-67, col
7, lines 1-4, col 10, lines 1-7).**

CONCLUSION

10.   Any inquiry concerning this communication or earlier communications from
the examiner should be directed to Pierre E. Elisca whose telephone number is 703
305-3987. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, James Trammell can be reached on 703 305-9769. The fax phone number
for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Pierre Eddy Elisca

Primary Patent Examiner

October 21, 2004